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10/692,839	10/24/2003	William B. Greenwald	3467-72965	9232
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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MAILED

Application Number: 10/692,839
Filing Date: October 24, 2003
Appellant(s): GREENWALD ET AL.

DEC 28 2007

GROUP 3600

Mr. Richard Lazarus
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 11, 2007 appealing from the Office action mailed March 07, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,948,691	Brock et al	09-2005
6,796,625	Lauchner et al	09-2004

6,588,866	Cheng	07-2003
3,133,768	Klakovich	05-1964

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

(A) Claims 1-17, and 20-23 stand rejected under 35 U.S.C. 103(a) as being unpatentable over USP 6,948,691 to Brock et al in view of USP 6,796,625 to Lauchner et al.

Brock et al discloses a telescoping slide assembly, such as shown in Fig 14, comprising all the elements recited in the above listed claims including interconnected load-carrying, intermediate, and stationary slides movable relative to one another to extend and retract the load-carrying and intermediate slides relative to the stationary slide, the load-carrying slide being formed to include a keyhole-shaped slot 254, such as shown in Figs 15-17, providing an enlarged-diameter entry and exit portion and a narrow-width post-retainer portion, the keyhole-shaped slot being adapted to receive a mounting post 252 coupled to a piece of equipment to be carried on the load-carrying slide, and a post retainer 256 including a base coupled to the load-carrying slide and an arm formed to include a raised portion 263, said arm being coupled to the base to move relative to the load-carrying slide between a slot-opening position lying away from the load-carrying slide to allow movement of the mounting post into the enlarged-diameter entry and exit portion of the keyhole-shaped slot and a slot-closing position receiving the mounting post in the post retainer upon movement of the mounting post from the enlarged-diameter entry and exit portion into the narrow-width post-retainer portion of

the keyhole-shaped slot, wherein the arm includes an actuator and a body arranged to interconnect the actuator and the base, the body is formed to include the raised portion 263, and the actuator includes means, facing toward the enlarged-diameter entry and exit portion of the keyhole-shaped slot, for intercepting a mounting post moving into the enlarged-diameter entry and exit portion and bending the body to cause the body to move away from the load-carrying slide so that the mounting post can pass from the enlarged-diameter entry and exit portion of the keyhole-shaped slot into the narrow-width post-retainer portion of the keyhole-shaped slot and the raised portion 263 formed in the body whereupon the actuator moves toward the load-carrying slide under a restoring force applied by the body to block removal of the mounting post from narrow-width post-retainer portion and the raised portion. The only difference being that Brock does not disclose the arm of the post retainer formed to include a retention aperture (instead of a raised portion 263 as disclosed).

Lauchner et al teaches a post retainer element 100/150 comprising a base 115 coupled to a drawer slide, an arm 113 formed to include a retention aperture 114, said arm 113 being coupled to the base 115 to move relative to the drawer slide between an opening position lying away from the drawer slide to allow movement of a mounting post 210 into the retention aperture and a locking position receiving the mounting post 210 in the post retainer; wherein the retention aperture 114 provides a secured engagement between the mounting post 210 and the post retainer. Therefore, it would have been obvious to modify the structure of Brock et al by providing the arm of the post retainer formed to include a retention aperture (instead of a raised portion as disclosed by Brock

et al) for the purpose of providing a secured engagement between the mounting post and the post retainer, as taught by Lauchner et al, since both teach alternate conventional drawer slide locking structure, used for the same intended purpose of locking/holding one member relative to another, thereby providing structure as claimed. Further, it would have been obvious to substitute one known locking structure (i.e., the retention aperture of Lauchner et al) for another locking structure (i.e., the raised portion 263 of Brock et al), because one of ordinary skill in the art would have been able to carry out such a substitution, and the results were reasonably predictable.

(B) Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brock et al, as modified, as applied to claim 1 above, and further in view of USP 6,588,866 to Cheng.

Brock et al, as modified, discloses all the elements as discussed above except for the slot surrounded in the plane of the wall by the generally flat wall of the load-carrying slide to permit the post only to enter the slot by moving generally perpendicular to the plane of the generally flat wall.

Cheng teaches an alternate idea of mounting a piece of equipment to a slide comprising a telescoping slide assembly having interconnected load-carrying, intermediate, and stationary slides movable relative to one another, a generally flat wall of the load-carrying slide being formed to include forward and rearward slots 40, each adapted to receive a mounting post 44, each slot 40 is surrounded in the plane of the wall by the generally flat wall of the load-carrying slide to permit the post only to enter the slot by moving generally perpendicular to the plane of the generally flat wall;

wherein the structure of slot 40 allows quick mounting of a piece of equipment to the load-carrying slide without the use of tools. Therefore, it would have been obvious, in view of Cheng, to modify the slot of Block et al, as modified, by providing a slot surrounded in the plane of the wall by the generally flat wall of the load-carrying slide to permit the post only to enter the slot by moving generally perpendicular to the plane of the generally flat wall in order to allow quick mounting of a piece of equipment to the load-carrying slide without the use of tools, as taught by Cheng, since both teach alternate conventional slot structure, used for the same intended purpose of mounting a piece of equipment to a slide, thereby providing structure as claimed.

(C) Claims 18-19, 26-27 stand rejected under 35 U.S.C. 103(a) as being unpatentable over USP 6,948,691 to Brock et al in view of USP 6,796,625 to Lauchner et al and USP 6,588,866 to Cheng.

Brock et al discloses a telescoping slide assembly, such as shown in Fig 14, comprising all the elements recited in the above listed claims including interconnected load-carrying, intermediate, and stationary slides movable relative to one another to extend and retract the load-carrying and intermediate slides relative to the stationary slide, the load-carrying slide being formed to include a keyhole-shaped slot 254, such as shown in Figs 15-17, providing an enlarged-diameter entry and exit portion and a narrow-width post-retainer portion, the keyhole-shaped slot being adapted to receive a mounting post 252 coupled to a piece of equipment to be carried on the load-carrying slide, and a post retainer 256 including a base coupled to the load-carrying slide and an arm formed to include a raised portion 263, said arm being coupled to the base to move

relative to the load-carrying slide between a slot-opening position lying away from the load-carrying slide to allow movement of the mounting post into the enlarged-diameter entry and exit portion of the keyhole-shaped slot and a slot-closing position receiving the mounting post in the post retainer upon movement of the mounting post from the enlarged-diameter entry and exit portion into the narrow-width post-retainer portion of the keyhole-shaped slot, wherein the arm includes an actuator and a body arranged to interconnect the actuator and the base, the body is formed to include the raised portion, and the actuator includes means, facing toward the enlarged-diameter entry and exit portion of the keyhole-shaped slot, for intercepting a mounting post moving into the enlarged-diameter entry and exit portion and bending the body to cause the body to move away from the load-carrying slide so that the mounting post can pass from the enlarged-diameter entry and exit portion of the keyhole-shaped slot into the narrow-width post-retainer portion of the keyhole-shaped slot and the raised portion formed in the body whereupon the actuator moves toward the load-carrying slide under a restoring force applied by the body to block removal of the mounting post from narrow-width post-retainer portion and the post retainer. The differences being that Brock et al does not disclose (1) the arm of the post retainer formed to include a retention aperture (in instead of a raised portion as disclosed), and (2) the slot surrounded in the plane of the wall by the generally flat wall of the load-carrying slide to permit the post only to enter the slot by moving generally perpendicular to the plane of the generally flat wall.

In regard to (1) the arm of the post retainer formed to include a retention aperture (in instead of a raised portion as disclosed), Lauchner et al teaches a post retainer

element 100/150 comprising a base 115 coupled to a drawer slide, an arm 113 formed to include a retention aperture 114, said arm 113 being coupled to the base 115 to move relative to the drawer slide between an opening position lying away from the drawer slide to allow movement of a mounting post 210 into the retention aperture and a locking position receiving the mounting post 210 in the post retainer; wherein the retention aperture 114 provides a secured engagement between the mounting post 210 and the post retainer. Therefore, it would have been obvious to modify the structure of Brock et al by providing the arm of the post retainer formed to include a retention aperture for the purpose of providing a secured engagement between the mounting post 210 and the post retainer, as taught by Lauchner et al, since both teach alternate conventional drawer slide locking structure, used for the same intended purpose of locking/holding one member relative to another, thereby providing structure as claimed.

In regard to (2) the slot surrounded in the plane of the wall by the generally flat wall of the load-carrying slide to permit the post only to enter the slot by moving generally perpendicular to the plane of the generally flat wall, Cheng teaches an alternate idea of mounting a piece of equipment to a slide comprising a telescoping slide assembly having interconnected load-carrying, intermediate, and stationary slides movable relative to one another, a generally flat wall of the load-carrying slide being formed to include forward and rearward slots 40, each adapted to receive a mounting post 44, each slot 40 is surrounded in the plane of the wall by the generally flat wall of the load-carrying slide to permit the post only to enter the slot by moving generally perpendicular to the plane of the generally flat wall; wherein the structure of slot 40

allows quick mounting of a piece of equipment to the load-carrying slide without the use of tools. Therefore, it would have been obvious, in view of Cheng, to modify the slot of Block et al by providing a slot surrounded in the plane of the wall by the generally flat wall of the load-carrying slide to permit the post only to enter the slot by moving generally perpendicular to the plane of the generally flat wall in order to allow quick mounting of a piece of equipment to the load-carrying slide without the use of tools, as taught by Cheng, since both teach alternate conventional slot structure, used for the same intended purpose of mounting a piece of equipment to a slide, thereby providing structure as claimed.

(D) Claims 24-25, and 28-30 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Brock et al, as modified, as applied to claims 18 and 26 above, and further in view of USP 3,133,768 to Klakovich.

Brock et al, as modified, discloses all the elements as discussed above except for a slide retainer coupled to the load-carrying slide to lie in spaced-apart relation to the post retainer and configured to engage a retraction stop included in the intermediate slide to block movement of the load-carrying slide relative to the intermediate slide from a fully extended position toward a retracted position within the intermediate slide, wherein the slide retainer includes a base coupled to the load-carrying slide, a movable arm cantilevered to the base, and a button appended to a distal portion of the movable arm and arranged to extend into a button retention aperture formed in the intermediate slide and bordered by the retraction stop during movement of the load-carrying slide relative to the intermediate slide.

Klakovich teaches the idea of providing a slide assembly with a slide retainer 50 coupled to the load-carrying slide 27 to lie in spaced-apart relation to a post retainer and configured to engage a retraction stop 53 included in the intermediate slide 26 to block movement of the load-carrying slide relative to the intermediate slide from a fully extended position toward a retracted position within the intermediate slide, wherein the slide retainer 50, such as shown in Fig 8, includes a base coupled to the load-carrying slide, a movable arm cantilevered to the base, and a button appended to a distal portion of the movable arm and arranged to extend into a button retention aperture formed in the intermediate slide and bordered by the retraction stop during movement of the load-carrying slide relative to the intermediate slide; wherein the slide retainer and retraction stop combination prevents inadvertent movement of the slides relative to each other in the extended position. Therefore, it would have been obvious to modify the structure of Brock et al, as modified, by providing a slide retainer coupled to the load-carrying slide to lie in spaced-apart relation to the post retainer and configured to engage a retraction stop included in the intermediate slide to block movement of the load-carrying slide relative to the intermediate slide from a fully extended position toward a retracted position within the intermediate slide, wherein the slide retainer includes a base coupled to the load-carrying slide, a movable arm cantilevered to the base, and a button appended to a distal portion of the movable arm and arranged to extend into a button retention aperture formed in the intermediate slide and bordered by the retraction stop during movement of the load-carrying slide relative to the intermediate slide in order to prevent inadvertent movement of the slides relative to each other in the extended

position, as taught by Klakovich, since both teach alternate conventional slide assembly structure, used for the same intended purpose, thereby providing structure as claimed.

(10) Response to Argument

In response to Appellant's arguments on pages 6-7 regarding the limitation in claim 1 by questioning where the retention aperture would be placed relative to the raised portion 263 and adding a retention aperture would render the raised portion 263 of Brock inoperable for its intended purpose, the examiner respectfully takes the position that the proposed modification of Brock, in view of Lauchner, is to replace/substitute the raised portion 263 of Brock with the retention aperture taught by Lauchner, NOT by adding a retention aperture to the device.

In response to Appellant's argument on page 7 that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to Appellant's arguments on pages 7-8 "[E]ven assuming, for purposes of argument..., when the lock arm 256 is in the locked position the top flat face of the head portion 255 would be in the same plane and would not enter into or extend through the hole and there would be no locking of the head by the hole", and "no

flat disc-shaped head portion 255 could extend into or through a hole in the lock arm even if one were provided", the examiner respectfully takes the position that if in the locked position, the lock arm 256 and the top flat face of the head portion 255 would be in the same plane and a hole is provided in the lock arm 256, then at least a portion of the top flat face of the head portion 255 would extend into the hole provided in the lock arm 256, thus meets the claimed limitation of the mounting post received in the retention aperture.

In response to Appellant's argument on pages 8-9 that Brock, as modified, fails to meet the limitation in claim 2 of "means for intercepting a mounting post....to block removal of the mounting post from narrow-width post-retainer portion and the retention aperture", the examiner respectfully takes the position that the actuator of Brock, such as shown in Figs 16-17, which includes the inclined portion and the portion opposite rivets 258 meets the claimed limitation of the actuator having "means for intercepting a mounting post....to block removal of the mounting post from narrow-width post-retainer portion and the retention aperture."

In response to Appellant's argument on page 9 that Brock, as modified, fails to meet the limitation of the means as recited in claim 3, the examiner respectfully takes the position that the portion of the arm opposite rivets 258 shown in Figs 17-18 meets the limitation in claim 3 of the actuator having "means for allowing a user to grip...for removal of the mounting post from the keyhole-shaped slot" (col. 7, lines 45-48).

In response to appellant's argument on page 10 regarding claim 6 that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it

must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response Appellant's argument on pages 10-11 regarding the limitation in claim 20, the examiner respectfully takes the position similar to that described above with respect to Appellant's argument regarding claim 1.

In response to Appellant's argument on page 11 regarding the limitation in claim 21, the examiner respectfully takes the position similar to that described above with respect to Appellant's argument regarding claim 2.

In response to Appellant's argument on page 11 that Brock fails to disclose the limitation in claim 22 of the slot is keyhole-shaped, the examiner respectfully takes the position that the claimed language fails to provide adequate structural limitation to describe a "keyhole-shaped" in order to distinguish from Brock. Appellant is reminded that a "keyhole" does come in many different shapes.

In response Appellant's argument on pages 11-12 regarding the limitation in claim 23, the examiner respectfully takes the position similar to that described above with respect to Appellant's argument regarding claim 1.

In response to Appellant's argument on pages 12-13, regarding the limitation in claim 31, that it would not have been obvious to modify the slot 254 of Brock in view of

Cheng, the examiner respectfully takes the position that simple substitution of one known slot for another slot to obtain predictable results would have been obvious to one of ordinary skill in the art at the time of the invention.

In response to Appellant's argument on pages 13-14 regarding the limitation in claim 18 of the slot and that it would have been obvious to modify the slot 254 of Brock in view of Cheng, the examiner respectfully takes the position that simple substitution of one known slot for another slot to obtain predictable results would have been obvious to one of ordinary skill in the art at the time of the invention.

In response to Appellant's argument on pages 14-15 regarding the limitation in claim 26, the examiner respectfully takes the positions similar to that described above with respect to Appellant's arguments regarding claims 1, 18 and 31.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Lanna Mai

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